

Charter for an Independent Evaluation of the Effectiveness and Efficiency of State Trust Fund Investments

**Department of Natural Resources
August 31, 2004**

Legal Context

The Washington State Department of Natural Resources (DNR) is the trust manager of some three million acres of upland trust lands. The DNR has a clear legal duty of undivided loyalty to each separate trust and is subject to the common law duties of a trustee. Providing financial support is one of the several trust land management responsibilities.

The Legislature is the trustee.

DNR management of trust lands is conducted within the framework of state and federal laws, various policy plans for specific resources such as forest, the 1997 Habitat Conservation Plan, the 2001 Washington State Forest Practices Rules, the state constitution and Enabling Act and with oversight and policy direction provided by the Board of Natural Resources. The Board of Natural Resources was created by the Legislature to provide strategic direction and to serve various statutory and constitutional duties regarding the fiduciary management of these trusts; one of their duties is a responsibility to set sustainable timber harvest levels for the forested trust lands.

Introduction

After the most extensive technical and public review ever accomplished, the Board of Natural Resources is ready to set a path for the stewardship of state trust forests, including a sustainable timber harvest level.

As a result of this work, there is a growing understanding that good stewardship will require increased investment to ensure healthy forest ecosystems and increased productivity. Without this investment, the financial and environmental benefits that accrue from the trust land will likely be eroded over time.

In addition to the Board of Natural Resources' extensive technical analysis of sustainable harvest levels, the department has studied global timber market conditions, conducted quarterly revenue projections, and has made major reductions in costs over the past three years. As a result of these analyses, the department has come to the conclusion that the significant financial and environmental benefits that are achievable with sustainable forest management cannot be obtained without an increase in the level of retainage for investment and operating expense currently available (25% of revenue generated from sales and leases).

During the past three years, Department of Natural Resources has cut overhead by 16%, reduced management fund expenditures by \$47 million, implemented new ways to market and sell timber to optimize price, found ways to improve revenue and bring revenue forward through land diversification and shortened contract lengths. However, these efficiency measures have not kept pace with increasing costs. In addition, timber prices have remained low in recent years and are projected to continue at lower than historical levels.

In 1971 the Legislature set the trust management funds at 25% of gross trust revenue from the lands. That percentage has not been updated since, despite the growing complexities of modern trust land management.

Need

Before seeking new management funds, Commissioner of Public Lands Doug Sutherland has chosen to undertake an independent examination, to determine whether this conclusion is warranted, or whether there are opportunities for further savings that would avoid the need for a funding increase. Commissioner Sutherland will appoint an Independent Review Committee of individuals from outside the Department of Natural Resources to review the Department's trust land operations, expenditures and revenues, and report their findings to him. This work is expected to be completed by mid December 2004.

Role of the members of the Independent Review Committee

Members of the Independent Review Committee have been chosen for their expertise and experience regarding governmental or private sector financing and organizational management. Their role on the committee will be to use their knowledge and expertise to challenge or verify the Department's conclusion that *the substantial benefits achievable from sustainable forest management are not obtainable without an increase in investment beyond what is possible with current level funds*. Because the Department of Natural Resources' conclusion was based on the legal and contractual framework, and the reality that timber price is largely determined by market forces beyond the agency's sphere of influence, the review committee will necessarily focus on the elements of cost and revenue as variables over which the agency maintains some management control. Their final report will be findings and recommendations to the Commissioner of Public Lands.

The Department will provide staff to the Independent Review Committee, and committee members will be compensated for their time and travel expenses in accordance with state law.

Independent Review Committee – Scope of Work

Under the assumption that the current legal and contractual framework remains constant, the focus of the Independent Review Committee is to evaluate the effectiveness and efficiency of trust land management.

Are there changes that would result in improved revenues or cost savings sufficient to fund current management and the implementation of the Board of Natural Resources' directions?

To answer this question the Independent Review Committee will need to evaluate revenues and expenditures.

Revenues: Are there additional actions that could be taken to further expand net revenues?

Expenditures: Are there significant changes that should be made to reduce expenditures while maintaining legal mandates, other trust duties, while meeting Board of Natural Resources' policy direction?

Key Principles and Assumptions

- *The trust concept of support of named beneficiaries will continue to govern upland trust lands.*
- *The upland trust lands will remain in state ownership for management.*
- *Only upland Trust expenditures and revenues will be reviewed.*
- *All existing legal requirements (laws, contracts, agreements) remain in place.*

Role of the Trust Beneficiaries

Department of Natural Resources will consult with beneficiary groups representing the various trusts before the Independent Review Committee convenes for its first meeting. The purpose of the beneficiary discussions will be to describe the review process and provide beneficiaries with a chance to voice the questions and concerns that the beneficiaries believe the Independent Review Committee should address. They will be invited to submit any additional questions in writing following this initial meeting.

Department of Natural Resources staff will compile all of the beneficiary questions and provide the complete list of questions to all beneficiaries. The questions will be included in briefing materials prepared for the Independent Review Committee members so they can be well informed about the beneficiaries' interests from the beginning of the review.

At the first meeting of the Independent Review Committee, a representative for each of the beneficiary trust groups will be given the opportunity to make a five to ten minute presentation to the Independent Review Committee. The purpose is to allow the beneficiary to elaborate or expand on the information previously provided in the briefing materials. The beneficiary trust groups are as follows:

- Common School Trust
- Normal School Trust
- WSU Agricultural and Scientific School Trusts
- UW Transferred and Original Trusts
- Community and Technical College Forest Reserve Trust
- CEP&RI Trust
- Capital Building Trust
- Forest Board Counties

The preliminary report of the Independent Review Committee will be distributed to the beneficiaries for review and comment. Comments will be reviewed by the Independent Review Committee prior to preparing the final report. The comments and responses will be included in an appendix to the final report.